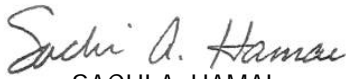


# ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

28 JUNE 15, 2010

  
SACHI A. HAMAI  
EXECUTIVE OFFICER

Los Angeles County  
Board of Supervisors

Gloria Molina  
First District

Mark Ridley-Thomas  
Second District

Zev Yaroslavsky  
Third District

Don Knabe  
Fourth District

Michael D. Antonovich  
Fifth District

June 15, 2010

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

John F. Schunhoff, Ph.D.  
Interim Director

Gail V. Anderson, Jr., M.D.  
Interim Chief Medical Officer

**APPROVAL OF AMENDMENT TO AGREEMENT WITH LOS ANGELES  
BIOMEDICAL RESEARCH INSTITUTE  
(SUPERVISORIAL DISTRICT 2)  
(3 VOTES)**

313 N. Figueroa Street, Suite 912  
Los Angeles, CA 90012

Tel: (213) 240-8101  
Fax: (213) 481-0503

**SUBJECT**

[www.dhs.lacounty.gov](http://www.dhs.lacounty.gov)

*To improve health*

*through leadership,*

*service and education.*

Request approval of an Amendment to extend the Agreement with Los Angeles BioMedical Research Institute, Inc., for the provision of Medical Research and Education Services at Harbor-UCLA Medical Center.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Authorize the Interim Director of Health Services (Interim Director), or his designee, to execute Amendment No. 4 to Agreement No. H-201979, with Los Angeles BioMedical Research Institute (LA BioMed), effective on Board approval to extend the term of the Agreement for the period of July 1, 2010 through June 30, 2014, for the continued provision of medical research and education services at Harbor-UCLA Medical Center (Harbor) and make additional changes to update Agreement provisions.
2. Delegate authority to the Interim Director, or his designee, to execute Amendments which extend the term of the Agreement for up to two additional one year periods, as needed, to complete the implementation of the master plan for Harbor, subject to review and approval by County Counsel and the Chief Executive Office (CEO) and notification to your Board.



## **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the first recommendation will allow the Interim Director, or his designee, to execute an Amendment to the Agreement with LA BioMed, substantially similar to Exhibit I, to continue the administration of the grant funded research and education projects on the Harbor's grounds. The current Agreement expires June 30, 2010. The Amendment also updates certain required provisions.

Approval of the second recommendation will enable the Department of Health Services (DHS) to exercise an option to further extend the current Agreement pending completion of the County master plan for Harbor which is projected for June 2014. If additional time is required to complete the plan, this delegated authority will facilitate the extension of the current Agreement. Once the master plan is complete, a longer term agreement with LA BioMed will be recommended for your Board's approval.

## **Implementation of Strategic Plan Goals**

The recommended actions support Goal 4, Health and Mental Health, of the County's Strategic Plan.

## **FISCAL IMPACT/FINANCING**

There is no County cost or money exchanged under this Agreement. LA BioMed provides in-kind services that both parties agree offset the value of the space and space support services provided by Harbor.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

LA BioMed has a long history of administering research and education projects at Harbor. The non-profit corporation was initially established in 1952 and has undergone several corporation name changes over the years. The current Agreement with LA BioMed (formerly known as The Research and Education Institute, Inc.) at Harbor was approved by your Board on June 2, 1992, with an agreement term through June 30, 2000, with provisions for a ten year automatic renewal through June 30, 2010. The Agreement allows LA BioMed to use space at Harbor to conduct its grant funded research and education programs. Subsequent amendments updated the Health Insurance Portability and Accountability Act of 1996 provisions.

LA BioMed continues to obtain grant funds and provides research and education projects that benefit the delivery of health care to County patients. Quarterly and annual reports are submitted documenting the agreed upon in-kind services.

County Counsel has reviewed and approved Exhibit I, as to form. The Amendment updates several provisions including the addition of your Board's recently adopted Defaulted Property Tax Reduction Program Ordinance language.

## **CONTRACTING PROCESS**

Not applicable.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the recommendations will provide for a continued collaboration between DHS and LA BioMed in the administration of vital research projects which benefit County patients.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Schunhoff". The signature is fluid and cursive, with a large initial "J" and "S".

JOHN F. SCHUNHOFF, Ph.D.

Interim Director

JFS:ev

Enclosures

c: Chief Executive Office  
County Counsel  
Executive Office, Board of Supervisors

MEDICAL RESEARCH AND EDUCATION AGREEMENT

AMENDMENT No. 4

THIS AMENDMENT is entered into this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010,

by and between

COUNTY OF LOS ANGELES (hereafter  
"County"),

and

LOS ANGELES BIOMEDICAL  
RESEARCH INSTITUTE AT HARBOR-  
UCLA MEDICAL CENTER, a California  
Non- Profit Public Benefit Corporation  
(hereafter "Institute")

WHEREAS, reference is made to that certain document entitled "MEDICAL RESEARCH AND EDUCATION AGREEMENT", dated June 2, 1992, and further identified as County Agreement No. H-201979, and any amendments hereto (all hereafter "Agreement"); and

WHEREAS, it is the intent of the parties hereto to further amend the Agreement to extend the term and to make other hereinafter designated changes; and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by the parties.

NOW, THEREFORE, the parties hereto agree as follows:

1. This Amendment shall become effective upon execution.
2. Agreement Paragraph 1, TERM, shall be deleted in its entirety and replaced as follows:

"1. TERM: The term of this Agreement shall commence on July 1, 1991,

and shall continue in full force and effect through June 30, 2014, with the option by the County to extend for up to two (2) additional one-year periods. Either party may terminate this Agreement at any time for any reason by giving at least three hundred sixty-five (365) days prior written notice thereof to the other party.”

3. Agreement Paragraph 14. ADMINISTRATION OF AGREEMENT, shall be deleted in its entirety and replaced as follows:

“14. ADMINISTRATION OF AGREEMENT: The Director shall have the authority to administer this Agreement on behalf of the County. The Director retains professional and administrative responsibility for the services rendered under this Agreement.”

4. Agreement Paragraph 16, DELEGATION AND ASSIGNMENT, shall be deleted in its entirety and replaced as follows:

“16. ASSIGNMENT AND DELEGATION: The Institute shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, County consent shall require a written amendment to this Agreement, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County’s sole discretion, against the claims, which the Institute may have against the County.

Shareholders, partners, members, or other equity holders of Institute may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Institute to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

Any assumption, assignment, delegation, or takeover of any of Institute's duties, responsibilities, obligations, or performance of same by any entity other than the Institute, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Agreement which may result in the termination of this Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Institute as it could pursue in the event of default by Institute."

5. Agreement Paragraphs 21 and 22, "NONDISCRIMINATION IN EMPLOYMENT" AND "NONDISCRIMINATION IN CONDUCT OF RESEARCH EVALUATION PROJECTS", respectively, shall be deleted in their entirety and replaced as follows:

"21. COMPLIANCE WITH CIVIL RIGHTS LAWS-ANTI-

## DISCRIMINATION AND AFFIRMATIVE ACTION LAWS

A. The Institute hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17); the Fair Employment & Housing Act, Government Code Section 12920-12922; and Affirmative Action in County Agreements, Chapter 4.32 of the Los Angeles County Code to the end that no person shall, on the grounds of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

B. The Institute certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

C. The Institute shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, in compliance with all

applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

D. The Institute certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation.

E. The Institute certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

F. The Institute shall allow County representatives access to the Institute's employment records during regular business hours to verify compliance with the provisions of this Paragraph 21 when so requested by the County. County shall maintain the confidentiality of all such employment records to the extent permitted by law.



G. If the County finds that any provisions of this Paragraph 21 have been violated, such violation shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a final determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Institute has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Institute has violated the anti-discrimination provisions of this Agreement.

H. The parties agree that in the event the Institute violates any of the anti-discrimination provisions of this Agreement, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

I. Anti-discrimination in Services: (if applicable) Institute shall not discriminate in the provision of services hereunder because of race, color, religious creed, national origin, ethnic group identification, ancestry, age, sex, sexual orientation, medical condition, marital status, political affiliation, or physical or mental disability in accordance with requirements of Federal and State laws. For the purpose of this sub-paragraph, discrimination in the provision of services may include, but is not limited to, the following: Denying any person any service or benefit or the availability of a facility;

providing any service or benefit to a person which is not equivalent or is provided in a non-equivalent manner or at a non-equivalent time, from that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit. Institute shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to race, color, religious creed, national origin, ethnic group identification, ancestry, sex, sexual orientation, age, medical condition, marital status, political affiliation, physical or mental disability.

J. The Institute shall certify to, and comply with, the provisions of Exhibit D - Contractor's EEO Certification."

6. Agreement Paragraph 23, CONFIDENTIALITY, shall be deleted in its entirety and replaced as follows:

"23. CONFIDENTIALITY:

A. Institute shall maintain the confidentiality of all records and information, including, but not limited to, billings, County records and patient records, in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and

procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.

B. Institute shall indemnify, defend, and hold harmless County, its Special Districts, elected and appointed officers, employees, and agents, collectively "County Parties" from and against any and all claims demands, and all resulting damages, liabilities, losses, costs and expenses, administrative penalties and fines assessed including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Institute, its officers, employees, agents, or subcontractors, to comply with this Paragraph as determined by County in its sole judgement. Any legal defense pursuant to Institute's indemnification obligations under this Paragraph shall be conducted by Institute and performed by counsel selected by Institute and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Institute fails to provide County with a full and adequate defense, as determined by County in its sole judgment, as required hereunder. County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and to reimbursement from Institute for all such costs and expenses incurred by County in doing so. Institute shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County

without County's prior written approval.

C. Institute shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality and indemnification provisions of this Agreement.

D. Institute shall sign and adhere to the provisions of the "Contractor Acknowledgement and Confidentiality Agreement", Exhibit E."

7. Agreement Paragraph 26, CONFLICT OF INTEREST, shall be deleted in its entirety and replaced as follows:

"26. CONFLICT OF INTEREST:

A. No County employee whose position with the County enables such employee to influence the award or administration of this Agreement or any competing contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Institute or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Institute who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

B. The Institute shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Institute warrants that it is not now aware of any facts that create such a conflict of interest. If the Institute hereafter becomes aware of any facts that might reasonably be expected to create such a conflict of interest, it shall immediately make full written

disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a **(reasonably)** complete description of all relevant circumstances. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Agreement.”

8. Agreement Paragraph 34, EMPLOYMENT ELIGIBILITY VERIFICATION, shall be deleted in its entirety and replaced as follows:

“34. EMPLOYMENT ELIGIBILITY VERIFICATION:

A. The Institute warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Institute shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), as they currently exist and as they may be hereafter amended. The Institute shall retain all such documentation for all covered employees for the period prescribed by law.

B. The Institute shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the County in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons

performing work under this Agreement.”

9. Agreement Paragraph 37, INSTITUTE’S WARRANTY OF COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX REDUCTION PROGRAM, shall be added to the Agreement as follows:

“37. INSTITUTE’S WARRANTY OF COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX REDUCTION PROGRAM:

A. Institute acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

B. Unless Institute qualifies for an exemption or exclusion, Institute warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of the Agreement will maintain compliance, with Los Angeles Code Chapter 2.206.”

10. Agreement Paragraph 38, TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX REDUCTION PROGRAM, shall be added to the Agreement as follows:

“38. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX REDUCTION PROGRAM: Failure of Institute to maintain compliance with the requirements set forth in Paragraph 37 above shall constitute default under this Agreement. Without limiting the rights and remedies available

to County under any other provision of this Agreement, failure of Institute to cure such default within ten (10) working days of notice shall be grounds upon which County may terminate this Agreement and/or pursue debarment of Institute, pursuant to County Code Chapter 2.206."

11. Agreement Paragraph 39, HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA), shall be added to the Agreement as follows:

"39. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) The County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Agreement, the Contractor provides services to the County and the Contractor receives, has access to, and/or creates Protected Health Information as defined in Exhibit F in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit F, Contractor's Obligations as a "Business Associate" Under Health Insurance Portability and Accountability Act of 1996 (HIPAA)."

12. As of July 1, 2010, Exhibits D, E, and F attached to this Amendment shall be added to the Agreement, and are hereby incorporated herein by reference.

13. Parties agree that Exhibit F shall supersede and replace the provisions of Amendment No. 2 dated March 26, 2003 and Amendment No. 3 dated April 20, 2005, of this Agreement for the period beginning from the execution of this Amendment to the term of the Agreement.

14. Except for the changes set forth hereinabove, the Agreement shall not be changed in any other respect by this Amendment, and shall remain in full force and effect.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its Interim

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Director of Health Services and Institute has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
John F. Schunhoff, Ph.D.  
Interim Director of Health Services

LOS ANGELES BIOMEDICAL RESEARCH  
INSTITUTE AT HARBOR-UCLA MEDICAL  
CENTER, a California Non-Profit Public Benefit  
Corporation Contractor

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Title \_\_\_\_\_  
(AFFIX CORPORATE SEAL)

APPROVED AS TO FORM  
BY THE OFFICE OF  
ANDREA ORDIN  
COUNTY COUNSEL

# EXHIBIT A

## LOS ANGELES COUNTY/HARBOR-UCLA MEDICAL CENTER

### UNIT II BUILDINGS ON HARBOR-UCLA MEDICAL CENTER GROUNDS

<u>BUILDING</u>	<u>GROSS SQUARE FEET</u>
B-1	9,933
B-1 SOUTH	1,850
B-2	7,345
B-2 EAST TRAILER	1,293
B-2 WEST TRAILER	1,440
B-3	6,066
B-3 ANNEX	929
B-4	8,208
B-4	417
B-5	7,026
B-6	4,482
C-1	7,707
C-1 ANNEX	5,179
C-2	4,430
C-2 TRAILER	604
C-3	4,365
C-4	2,880
C-5	4,365
C-6	4,118
C-7	4,118
C-7 ANNEX	553
D-1	10,751
D-2	3,523
D-2 ANNEX	1,762
D-3	5,339
D-4	4,451
D-5	4,532
D-5 ANNEX	636
D-5 RAMP OFFICE	679
D-5 REST ROOM	240
D-6	4,114
D-6 RAMP OFFICE	768
D-7	3,028
D-8	3,028
D-9 TRAILER	2,880
D2/D3 MODULAR UNIT	1,420
D5/D6 MODULAR UNIT	5,533
E-1	1,800
E-1 ANNEX	1,862

BUILDINGGROSS SQUARE FEET

E-2	3,913
E-3	4,796
E-3 TRAILER	1,440
E-4	10,051
E-4 TRAILER	1,024
E-5	4,084
E-6	9,043
E-6 ANNEX	1,452
E-6 LAB	864
E-6 TRAILER	1,445
F-1	7,577
F-1 ANNEX	1,121
F-2	1,965
F-3	5,454
F-4	5,904
F-5	3,918
F-5 TRAILER	758
F-6	4,242
F-7	3,877
F-8	4,162
F-8 ANNEX	1,124
F-9	3,984
F-9 TRAILER	1,200
F-10	5,040
H-1	830
J-2 TRAILER	1,464
J-3	5,775
J-3 TRAILER	1,453
J-4 TRAILER	4,656
L-1	2,838
L-2/L-3	6,233
L-4	3,600
L-5 TRAILER	2,910
M-1	4,440
N-1	5,037
N-2	5,338
N-3	2,780
N-4	2,160
N-6	2,257
N-7	1,500
N-8	4,425
N-9	9,793
N-11	1,515
N-12	1,440
N-14	14,181
N-16	1,183

BUILDINGGROSS SQUARE FEET

N-17	2,086
N-18	2,160
N-19	660
N-21	2,160
N-22	2,650
N-23	2,587
N-24 & N-24 ANNEX	11,334
N-26	2,592
N-27	2,400
N-28	12,881
N-31	4,800
N-32	3,600
N-33	3,600
T-1	2,450
COTTAGE 14	875
COTTAGE 16	875
COTTAGE 18	875
COTTAGE 21 (N34)	1,125
COTTAGE 24 (N35)	1,497
FINANCE TRAILER	<u>6,447</u>
TOTAL	385,554

\* Billing for space and space support services will be based on actual space occupied, which will not necessarily be all space listed.

\*\* Unit II space listed excludes the following:

- Walter P. Martin Research Building
- Saint John's Cardiovascular Research Building
- Magnetic Resonance Imaging Building
- Medical Foundation Building
- Children's Institute International Child Welfare Services Building

DLJ:bc  
9-DEC-92  
CG/AGREEMEN/CS8

**EXHIBIT B**  
**MEDICAL RESEARCH AND EDUCATION AGREEMENT**  
**ALLOWABLE IN-KIND SERVICES**

In-Kind Services

Subject to the payment provisions of the body of this Agreement, the following in-kind services may be utilized by Institute to compensate County for the costs of space support services provided Institute in lieu of cash payment:

A. Building Maintenance: Unit II building maintenance costs incurred by Institute which are unrelated to research activities conducted by Institute. This shall include a proration of expenditures related to County physician offices and space exclusively utilized for County clinical programs as appropriate.

Valuation Methodology: Actual Institute costs attributable to space occupied/utilized for County purposes. Such costs, however, may not exceed the following cost standards: a) For wages paid laborers, the maximum allowable costs shall be based upon the County's Salary Ordinance 5th step rate, reduced to an hourly rate, for the comparable County employee classification (whether carpenter, plumber, electrician, or other) as detailed in the Interpretive Manual for County Pay and Benefit Provisions - Class Salary and Benefit Listing. b) For any laborer benefits which are paid

by Institute separate from wages, computation of the maximum allowable costs shall be based upon the County's lowest budgeted employee benefits rate, excluding benefits specifically tied to management classifications, e.g., megaflex. c) For supplies and materials, the maximum costs of Institute hereunder may not exceed the cost paid by County's Purchasing Agent for the same or similar items. Hospital Administrator or his/her authorized designee shall verify such costs in accordance with standard County policies and shall consult with County's Purchasing Agent staff when the fair market value cannot be reasonably determined.

If Institute's actual costs are less than the cost figures determined in accordance with the standards hereinabove, the actual costs figures shall be used.

Institute's overhead costs shall be determined as follows: Overhead costs shall not exceed the lesser of the institutional indirect cost rate negotiated annually with Region 9 of the federal government's Department of Health and Human Services (DHHS) or Institute's actual indirect cost rate based upon Institute's Certified Public Auditor's annual report (i.e., general Institute fiscal year general operations' expenses over total program expenses).

Documentation: Institute shall have and retain detailed records and paid vendor invoices to reflect its costs. Institute's records and vendor invoices, among other things,

shall each clearly show the specific building and space in which the work was performed, and the project square footage where appropriate. Copies of these records, invoices, and rate schedules, as well as evidence that the prior approval of the work has been given by the Hospital Administrator/ designee and by any other County agency or employee required by the body of this Agreement to authorize same, shall be provided to Hospital Administrator as part of its in-kind service remittance response to County's invoice for space support services.

Institute shall also prepare, periodically update, and retain throughout the Agreement period records showing County's use of Unit II building space for County clinical programs, for County physician offices, and for other exclusive County purposes. These records shall be prepared in a way so that the parties will know by reviewing them what respective Unit II spaces and their associated square footages were used for County purposes on any date of the Agreement term. County representatives shall have access to these records for purposes of verifying the proration of work costs (based upon County versus Institute use of square footage occupied) for this in-kind service. Hospital Administrator or his/her authorized designee shall be responsible for verifying that Institute's records showing County occupancy of Unit II

spaces are accurate.

Hospital Administrator or his/her authorized authorized designee shall maintain for use by Institute's representatives and others records of County's Salary Ordinance, County's Interpretive Manual, etc., and County employee benefits package figures to permit proper completion of laborer and benefits costs maximums.

Hospital Administrator or his/her designee shall also maintain records of County prices for supplies or materials which are the same or similar to items procured by Institute and used as in-kind services hereunder. These records shall be made available to Institute and others upon request.

B. Building Renovations Unit II building renovations and improvements (except those which are covered in Ground Leases 1 and 2) paid for at Institute expense which are unrelated to research activities conducted by Institute. This includes a proration of the costs related to space occupied by County physicians or offices and space exclusively utilized for County clinics and other County programs. Additionally, beginning May 15, 1992, this includes the return by Institute to County of Unit II building space, previously used exclusively hereunder for research and educational activities, which have been renovated or improved at Institute expense on or after May 15, 1992. Such a return of building space may be due to cancellation, revocation, or termination of Agreement, or the result of the exercise of a right granted under this



Agreement to County. To qualify as an in-kind allowable service hereunder when building space previously used exclusively by Institute for research or educational activities is returned to County, the renovation/improvement costs of Institute must meet all of the following conditions:

1. The expenditure must result in an improvement to the building which is beneficial to clinic services or other County purposes scheduled to be conducted in the building, e.g., the building must not be scheduled for demolition upon return to the County. This finding shall be made by Director or his/her authorized designee.

2. The expenditure must extend the useful life of the building; e.g., new roof. The building must be inspected by Hospital's mechanical department staff and the building must be found by them to be suitable for County occupancy and the renovation(s)/improvement(s) is (are) in good condition.

3. The expenditure must be one which Director or his/her authorized designee determines would have been considered and likely incurred by County if the building had been used by the Hospital for County purposes at the

time the expenditure was made.

Valuation Methodology:

1. Unit II building renovations and improvements for space occupied by County physicians or offices and space exclusively used for County clinics or other County programs: a) For wages paid laborers, the maximum allowable costs shall be based upon the County's Salary Ordinance 5th step rate, reduced to an hourly rate for the comparable County employee classification (whether carpenter, plumber, electrician, or other) as detailed in the Interpretive Manual for County Pay and Benefit Provisions - Class Salary and Benefit Listing. b) For any laborer benefits which are paid by Institute separate from wages, computation of the maximum allowable costs shall be based upon the County's lowest budgeted employee benefits rate, excluding benefits specifically tied to management classifications, e.g., megaflex. c) For supplies and materials, the maximum costs of Institute hereunder may not exceed the cost paid by County for the same or similar items. Hospital Administrator or his/her authorized designee shall verify such costs in accordance with standard County policies and shall consult with County's Purchasing Agent staff when the fair market value cannot reasonably

be determined.

If Institute's actual costs are less than the cost figures determined in accordance with the standards hereinabove, the actual costs figures shall be used.

Institute's overhead costs shall be determined as follows: Overhead costs shall not exceed the lesser of the institutional indirect cost rate negotiated annually with Region 9 of the federal government's Department of Health and Human Services (DHHS) or Institute's actual indirect cost rate based upon Institute's Certified Public Auditor's annual report (i.e., general Institute fiscal year general operations' expenses over total program expenses).

2. Institute occupied buildings returned to County: Book value based upon costs incurred by Institute for such renovations/improvements. Book value shall be based upon the useful life thereof recognized per generally accepted accounting principles. Institute costs used to determine book value may in no event exceed costs determined in accordance with item #1, immediately above. Further, the book value shall be subject to the County's Internal Service Department's test for reasonableness to determine if the book value

is excessive.

Documentation: Institute shall have and retain detailed records and paid vendor invoices to reflect its costs. Institute's records and vendor invoices, among other things, shall each clearly show the specific building and space in which the work was performed, and the project square footage where appropriate. Copies of these records, invoices, and rate schedules, as well as evidence that the prior approval of the work has been given by the Hospital Administrator or his/her authorized designee and by any other County agency or employee required by the body of this Agreement to authorize same, shall be provided to Hospital Administrator or his/her authorized designee as part of its in-kind service remittance response to County's invoice for space support services.

Institute shall also prepare, periodically update, and retain throughout the Agreement period records showing County's use of Unit II building space for County clinical programs, for County physician offices, and for other exclusive County purposes. These records shall be prepared in a way so that the parties will know by reviewing them what respective Unit II spaces and their associated square footages were used for County purposes on any date of the Agreement term. County

representatives shall have access to these records for purposes of verifying the proration of work costs (based upon County versus Institute use of square footage occupied) for this in-kind service. Hospital Administrator or his/her authorized designee shall be responsible for verifying that Institute's records showing County occupancy of Unit II spaces are accurate.

Hospital Administrator or his/her authorized designee shall maintain for use by Institute's representatives and others records of County's Salary Ordinance, County's Interpretive Manual, etc., and County employee benefits package figures to permit proper completion of laborer and benefits costs maximums.

Hospital Administrator or his/her authorized designee shall also maintain records of County Purchasing Agent prices for supplies or materials which are the same or similar to items procured by Institute and used as in-kind services hereunder. These records shall be made available to Institute and others upon request.

For returns to County of improved/renovated buildings, Hospital shall additionally retain records related to the Director and Hospital mechanical department staff findings mentioned above. Institute shall further maintain and provide to County staff upon request records reflecting the useful life of the renovation(s)/improvement(s) and

evidence that the depreciated cost thereof or book value was determined in accordance with generally accepted accounting principles.

C. Professional Staff Association Annual Meeting

Actual costs incurred by Institute for the medical staff annual meeting which is required under Hospital's Medical Staff bylaws.

Valuation Methodology: Institute's costs of photocopies of Hospital written materials enclosed as part of the mailed meeting notice to staff members, together with the costs of first class postage for the mailing, shall be determined. Institute's per page photocopying costs hereunder may not, however, exceed County's per page photocopying fee for public records, as determined from time to time by County's Auditor-Controller. If Institute arranges and pays for the dinner meal in connection with the annual meeting, those costs may similarly be used as an in-kind service hereunder. However, the costs per meal reimbursable of those in attendance may not exceed the County's maximum costs per dinner meal for County employee travel during the month of the meeting, as determined in accordance with the requirements of County Code Section 5.40.095.

Note: If Institute's actual costs are less than the maximum permitted costs which have been determined in

accordance with the aforementioned standards, only the actual costs may be used as an in-kind service credit.

Documentation: Institute records of mailing, including listing of invited attendees authorized by Hospital Administrator or his/her designee. Institute records showing the number of pages of Hospital materials enclosed with the mailing which were photocopied, the number of first class postage stamps used, and Institute's concomitant photocopying and postage stamp costs. Paid vendor invoices showing cost per meal of those in attendance at meeting. Additionally, Institute shall secure and retain prior written authorization from Hospital Administrator or his/her authorized designee to incur these meeting expenses. All of the above information shall be provided to Hospital Administrator or his/her authorized designee with the Institute's remittance statement given in response to Hospital's invoice for payment of space support services costs.

Hospital Administrator or his/her authorized designee shall maintain throughout the term of Agreement evidence of the Auditor-Controller's fee schedule for photocopying public records, as adjusted from time to time, and County Code Section 5.40.095 which references the maximum County reimbursement for dinner meals for each month of the annual PSA meeting. Hospital shall permit Institute

representatives reasonable access to this information.

D. Board Room Use by County for Hospital Committee Meetings: Actual prorated costs incurred by Institute for the use of Institute's Board Room for Hospital medical staff committee meetings.

Note: Since Hospital's committee also serves as an Institute committee for research and education activities, only one-half of the expenditures may be used by Institute as an in-kind service credit hereunder.

Valuation Methodology: One-half of the following costs: Actual costs of Institute (1) to have a custodian clean and set-up the Board Room and (2) to provide meals to committee members during committee sessions in Board room. Wages cost of a custodian hereunder shall not exceed the existing County Salary Ordinance rate at the 5th step, reduced to an hourly figure, for a hospital custodian. Employee benefits costs shall not exceed the County's lowest budgeted employee benefits rate (see Section A of this Exhibit for particulars). Cost per meal furnished may not exceed County's maximum reimbursable costs per accordance with the requirements of County Code Section 5.40.095.

If Institute's actual costs hereunder are less than the maximum costs determined in accordance with the above procedures, then the Institute's actual costs shall be



used.

Documentation: Institute shall prepare and retain time records and payroll records for custodian time spent in cleaning and setting-up the Board Room. Institute shall also secure and retain vendor receipts for meals furnished attendees. Institute shall obtain and retain the Hospital Administrator's or his/her authorized designee's prior written approval prior to incurring any of these expenditures. Institute shall further maintain a listing of staff in attendance at each meeting. Copies of this information shall be submitted to Hospital by Institute if any of these expenditures are offered by Institute as an in-kind service to satisfy a County space-support cost billing.

Hospital Administrator or his/her authorized designee shall determine (1) the County salary ordinance rate reduced to an hourly figure, payable a hospital custodian at the 5th step, and (2) the County's budgeted employee benefits rate. This information shall be made available at Hospital to representatives of Institute and other County representatives at all reasonable times during the Agreement term.

E. Photocopying for Hospital Medical Staff Committee:  
Actual prorated costs incurred by Institute for the photocopying and mailing of materials requested by Hospital medical staff committees.

Note: If a Hospital medical staff committee also serves as an Institute committee for research and educational activities, only one-half of the expenditures hereunder may be used by Institute as an in-kind service.

Valuation Methodology: Institute's actual costs of first class mailing and costs of photocopying materials which are enclosed. Institute's per page costs of photocopying may not exceed, however, County's per page photocopying fee for public records, as determined from time to time by County's Auditor-Controller.

Note: If Institute's actual costs are less than the maximum permitted costs hereunder, only the actual costs may be used as an in-kind credit.

Documentation: Institute records reflecting number of addressees, number of enclosure pages, and costs of first class postage. Institute shall also obtain and retain Hospital Administrator's or his/her authorized designee's prior written approval to incur these costs. Cost of all of this information shall be submitted to Hospital by Institute if any of these expenditures are offered by Institute as an in-kind service hereunder.

Hospital Administrator or his/her authorized designee shall maintain throughout the term of Agreement the Auditor-Controller's rate schedule for photocopying public

records, and shall permit Institute with access to this information at all reasonable times.

F. Human Subjects/Research Committee Staff Support:  
Actual Institute clerical staff support costs incurred by Institute for the Human Subjects Committee and Research Committee under Hospital's Medical Staff bylaws.

Since these committees also serve as Institute's committees for its research activities, only one-half of the actual costs incurred by Institute in support of the committees will qualify as an in-kind service.

Valuation Methodology: The maximum salaries for clerical staff allowable for determining costs hereunder shall not exceed the County's salary ordinance at the 5th step, at the time the support is provided for the comparable County employee classification as detailed in the Interpretive Manual for County pay and Benefits Provisions - Class Salary and Benefit Listing. These salaries shall be reduced to an hourly rate to determine Institute's costs hereunder. Employee benefits payable by Institute to or on behalf of the employees shall also qualify as a support cost. However, these costs may not exceed the County's lowest budgeted employee benefits rate (excluding benefits specifically fixed to management classifications, e.g., megaflex) which County pays to its full-time employees in the aforementioned classifications. If Institute's costs

for these employees are less than the comparable County costs, then Institute's costs shall be the bench mark hereunder. Hospital Administrator or his/her authorized designee must give approval to Institute to incur these expenses.

Documentation: Institute shall prepare and maintain accurate time and salary benefits costs records of the clerical staff time spent in rendering clerical support to these committees. This information shall be submitted to Hospital at the time Institute seeks to claim one-half of these costs as an in-kind credit. Institute shall make available to County staff, upon request, records reflecting the prior approval of Hospital Administrator or his/her authorized designee to incur these expenses.

Hospital Administrator or his/her authorized designee shall maintain and make available to Institute the hourly County employee salary rate and County employee benefit rate for the County ordinance employee item(s) mentioned above.

G. County Faculty and Fellows Office Space: Cost for the provision of County faculty office space in the Walter P. Martin Research Building and space provided to County faculty and fellows in Unit II buildings which were constructed by Institute at Institute expense.

Valuation, Methodology: The following occupancy rate which is billed quarterly shall apply to office space

assigned in the Walter P. Martin Unit II buildings to County faculty and fellows: \$1.50 per square foot assigned during the calendar quarter. This rate shall be adjusted annually, on July 1, in accordance with the percentage increase/decrease in the federal consumer price index for all consumers in the Long Beach - Los Angeles area.

Note: Only space which is not otherwise provided to County by Institute under another contract or lease may serve as an in-kind credit hereunder.

Documentation: Institute records reflecting space assigned, by location and square footage, to County faculty and County fellows for County purposes in the buildings. Institute records reflecting Hospital Administrator or his/her authorized designee's prior permission to the individual County faculty and fellows to occupy the space (Hospital Administrator or his/her authorized designee may withdraw this permission at any time). This information shall be made available at all reasonable times to County's Auditor-Controller and other County staff.

H. Laboratory Tests Performed on County Patients:  
Actual costs incurred for tests performed on County patients for cytogenetic tests provided by Institute in excess of the maximum obligation per the separate County

formal cytogenetic contract with Institute.

Valuation Methodology: Cost per the rate established in the County/Institute contract multiplied by the number of laboratory tests performed in excess of the contract maximum.

Documentation: Institute report of excess laboratory tests performed as verified to County records. Rates per the separate County Institute cytogenetic formal agreement. This information shall be provided to Hospital by Institute when Institute offers cytogenetic tests as an in-kind service credit.

I. Drugs Provided to County Patients: County savings associated with Institute's provision of drugs/medications to Hospital patients as part of sponsored Institute therapeutic studies. County would have purchased and administered such drugs/medications to the patients per normal Hospital treatment.

Valuation Methodology: Costs shall be the costs County would have paid for the drugs/medications (based upon County vendor agreements) multiplied by the quantity of drugs issued by Institute to County and administered to County patients at Hospital.

Documentation: Institute's report of the types of drugs issued to County patients as part of therapeutic

studies and drugs that would have been purchased by the County. Documents indicating pre-approval and drug/medication acceptance by Hospital Administrator or his/her authorized designee.

J. Equipment Transfers to County: Fair market value (FMV) of equipment, the title and possession of which have been transferred to and accepted by County in accordance with standard County policies. Among other things, Hospital Administrator or his/her authorized designee must determine in accepting equipment that the proffered item is needed and will be used by Hospital (whether in patient care or in Hospital administrative areas) and is in good working condition.

Valuation Methodology: The FMV shall be the actual book value of equipment transferred by Institute to County. Book value shall be initially established by the purchase price paid by Institute for the equipment and by applying a ten (10) year straight-line depreciation from the date of purchase, with the exception of computer and photocopy equipment to which a five (5) year straight-line depreciation shall apply from the date of purchase. Hospital Administrator or his/her authorized designee shall verify that the purchase price paid by Institute for the equipment is not excessive and is comparable to or less than the purchase price paid by County for the same or

similar items. Hospital Administrator or his/her authorized designee shall determine the County's purchase price of identical or similar equipment items, when new, and shall consult with County's Purchasing Agent staff when County's purchase price of equipment under standard County policies cannot reasonably be determined. If the Institute's purchase price is excessive, the County's price shall be used with the aforementioned depreciation schedule to establish the equipment's book value.

Documentation: Institute's listing of equipment transferred to the Hospital. Institute records for the equipment, including vendor receipts showing purchase prices and acquisition dates. Institute record showing dates of transfer of the equipment to Hospital.

Hospital records reflecting Hospital Administrator/designee acceptance of the equipment for County and indicating which of the valuation methodology procedures mentioned above were used to determine the equipment's fair market value.

K. Institute Owned Equipment Utilized by County: Institute's estimated costs associated with the Hospital's exclusive use for Hospital purposes of Institute-owned equipment not less than 50% of the time of operation during the year and apportioned evenly each month. If Hospital uses the equipment in excess of this percentage of time,



the costs associated with that use shall not qualify for an in-kind service credit hereunder.

Valuation Methodology: Estimated monthly costs of Institute shall be determined by: (1) taking fifty percent of the depreciation expense for the year, and dividing this figure by twelve; and (2) the depreciation expense shall be determined by the purchase price paid by Institute for the equipment and by applying a ten (10) year straight-line depreciation from the date of purchase, with the exception of computer and photocopy equipment to which a five (5) year straight-line depreciation shall apply from the date of purchase. Hospital Administrator or his/her authorized designee shall verify in accordance with standard County policies that the purchase price paid by Institute for the equipment is not excessive and is comparable to or less than the purchase price paid by County for the same or similar items. Hospital Administrator or his/her authorized designee shall consult with County's Purchasing Agent staff when County's purchase price for the equipment cannot reasonably be determined. If the Institute's purchase price is excessive, the County's price shall be used with the aforementioned depreciation schedule to determine the yearly depreciation expense. There shall be no qualifying in-kind service for Hospital's use of equipment which has no residual value following application

of the appropriate depreciation schedule.

Documentation: Institute records documenting purchase prices, purchase dates, and depreciation of the equipment in accordance with the methodology defined above. Institute listing of equipment used by Hospital.

Hospital records confirming use of the equipment and indicating Hospital Administrator's or his/her authorized designee's approval of Hospital use of new equipment purchased by Institute. Hospital records verifying that the lowest appropriate purchase price of the equipment was used, in accordance with the valuation methodology set forth hereunder.

L. Fellows Providing Patient Care to County Patients: Costs incurred by Institute, including administrative overhead costs, for salaries and employee benefits related to the Institute's fellows who provide clinical patient care to Hospital patients.

Valuation Methodology: Costs shall be based upon actual hours worked with County patients for County purposes, multiplied by the fellowship salary (reduced to an hourly rate) which the Public Health Service of the National Institute of Health requires in its rules and regulations be paid in the fellowship. Employee benefits paid by Institute to or on behalf of the fellow by

Institute shall also qualify as an in-kind service hereunder; however, those benefits may not exceed the lowest County budgeted employee benefits rate (excluding benefits specifically tied to management classifications, e.g. megaflex). The employee benefits costs shall be determined by multiplying the salary (for actual hours worked by the fellow) by the appropriate rate. Institute may also charge a portion of its administrative overhead as a cost hereunder and this shall not exceed the lesser of the institutional and indirect cost rate negotiated annually with Region 9 of the federal government's Department of Health and Human Services (DHHS) or Institute's actual indirect cost rate based upon Institute's Certified Public Auditor's annual report (i.e., general Institute fiscal year operations' expenses over total program expenses).

Documentation: Institute records of actual hours worked in providing patient care to Hospital patients as supported by Institute's payroll records. Hospital records confirming such work. Institute records of rates referenced in valuation methodology above.

M. Faculty Recruitment: Actual costs incurred by Institute for recruitment of Hospital faculty.

Valuation Methodology: Actual costs of lodging, travel (air and ground), and meals for candidate, if written pre-

approval by the Hospital Administrator or his/her authorized designee is obtained by Institute. Air travel cost is restricted to the price of economy fare. In no event may these costs exceed the maximum travel, lodging, and meal costs permitted for County employees under existing County ordinance and policies.

Documentation: Actual paid invoices supporting faculty recruitment expenditures and Hospital Administrator or his/her authorized designee's pre-authorization thereof.

DLJ:bc

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**EXHIBIT D**

**CONTRACTOR'S EEO CERTIFICATION**

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Contractor Name

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Address

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Internal Revenue Service Employer Identification Number

**GENERAL CERTIFICATION**

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

**CONTRACTOR'S SPECIFIC CERTIFICATIONS**

- |    |   |                              |                             |
|----|---|------------------------------|-----------------------------|
| 1. | The Contractor has a written policy statement prohibiting discrimination in all phases of employment.   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. | The Contractor periodically conducts a self analysis or utilization analysis of its work force.   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. | The Contractor has a system for determining if its employment practices are discriminatory against protected groups.  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. | Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

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Authorized Official's Printed Name and Title

---

Authorized Official's Signature

---

Date

**CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

CONTRACTOR NAME \_\_\_\_\_ Contract No. \_\_\_\_\_

**GENERAL INFORMATION:**

The Contractor referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

**CONTRACTOR ACKNOWLEDGEMENT:**

Contractor understands and agrees that the Contractor employees, consultants, Outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced contract.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced contract. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

**CONFIDENTIALITY AGREEMENT:**

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced contract. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County vendors is provided to me during this employment, Contractor and Contractor's Staff shall keep such information confidential.

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

Contractor and Contractor's Staff acknowledge that violation of this agreement may subject Contractor and Contractor's Staff to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

## EXHIBIT F

### CONTRACTOR'S OBLIGATIONS AS A BUSINESS ASSOCIATE UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (BUSINESS ASSOCIATE AGREEMENT)

Under this Agreement, Contractor ("Business Associate") provides services ("Services") to County ("Covered Entity") and Business Associate receives, has access to or creates Protected Health Information in order to provide those Services.

Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Regulations") and the Health Insurance Reform: Security Standards ("the Security Regulations") at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (together, the "Privacy and Security Regulations"). The Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate ("Business Associate Agreement") in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

Further, pursuant to the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act"), effective February 17, 2010, certain provisions of the HIPAA Privacy and Security Regulations apply to Business Associates in the same manner as they apply to Covered Entity and such provisions must be incorporated into the Business Associate Agreement.

This Business Associate Agreement and the following provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Business Associate in compliance with HIPAA's Privacy and Security Regulations and the HITECH Act, as they now exist or may hereafter be amended.

Therefore, the parties agree as follows:

#### DEFINITIONS

- 1.1 "Breach" has the same meaning as the term "breach" in 45 C.F.R. § 164.402.
- 1.2 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

- 1.3 "Electronic Health Record" has the same meaning as the term "electronic health record" in the HITECH Act, 42 U.S.C. section 17921. Electronic Health Record means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- 1.4 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission. The term "Electronic Media" draws no distinction between internal and external data, at rest (that is, in storage) as well as during transmission.
- 1.5 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.
- 1.6 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.7 "Minimum Necessary" refers to the minimum necessary standard in 45 C.F.R. § 162.502 (b) as in effect or as amended.
- 1.8 "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164, also referred to as the Privacy Regulations.
- 1.9 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis



for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Health Information.

- 1.10 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.
- 1.11 "Security Incident" means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.
- 1.12 "Security Rule" means the Security Standards for the Protection of Electronic Health Information also referred to as the Security Regulations at 45 Code of Federal Regulations (C.F.R.) Part 160 and 164.
- 1.13 "Services" has the same meaning as in the body of this Agreement.
- 1.14 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.
- 1.15 "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.
- 1.16 Terms used, but not otherwise defined in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Regulations and HITECH Act.

## **OBLIGATIONS OF BUSINESS ASSOCIATE**

- 2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:

(a) shall Use and Disclose Protected Health Information only as necessary to perform the Services, and as provided in Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 of this Agreement;

(b) shall Disclose Protected Health Information to Covered Entity upon request;

(c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:

(i) Use Protected Health Information; and

(ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose or in any manner that would constitute a violation of the Privacy Regulations or the HITECH Act if so Used or Disclosed by Covered Entity.

**2.2 Prohibited Uses and Disclosures of Protected Health Information. Business Associate:**

(a) shall not Use or Disclose Protected Health Information for fundraising or marketing purposes.

(b) shall not disclose Protected Health Information to a health plan for payment or health care operations purposes if the Individual has requested this special restriction and has paid out of pocket in full for the health care item or service to which the Protected Health Information solely relates.

(c) shall not directly or indirectly receive payment in exchange for Protected Health Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act. This prohibition shall not effect payment by Covered Entity to Business Associate. Covered Entity shall not provide such written consent except upon express approval of the departmental privacy officer and only to the extent permitted by law, including HIPAA and the HITECH Act.

**2.3 Adequate Safeguards for Protected Health Information. Business Associate:**

(a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Business Associate Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the Minimum Necessary in accordance with the Privacy Regulation's minimum necessary standard as in effect or as amended.

(b) as to Electronic Protected Health Information, shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information; effective February 17, 2010, said safeguards shall be in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312, and shall comply with the Security Rule's policies and procedure and documentation requirements.

2.4 Reporting Non-Permitted Use or Disclosure and Security Incidents and Breaches of Unsecured Protected Health Information. Business Associate

(a) shall report to Covered Entity each Use or Disclosure of Protected Health Information that is made by Business Associate, its employees, representatives, Agents, subcontractors, or other parties under Business Associate's control with access to Protected Health Information but which is not specifically permitted by this Business Associate Agreement or otherwise required by law.

(b) shall report to Covered Entity each Security Incident of which Business Associate becomes aware.

(c) shall notify Covered Entity of each Breach by Business Associate, its employees, representatives, agents or subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of the Business Associate as determined in accordance with the federal common law of agency.

2.4.1 Immediate Telephonic Report. Except as provided in Section 2.4.3, notification shall be made immediately upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information by telephone call to (562) 940-3335.

2.4.2 Written Report. Except as provided in Section 2.4.3, the initial telephonic notification shall be followed by written notification made without unreasonable delay and in no event later than three (3) business days from the date of discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach by the Business Associate to the Chief Privacy Officer at:

Chief Privacy Officer  
Kenneth Hahn Hall of Administration

500 West Temple Street  
Suite 525  
Los Angeles, California 90012  
HIPAA@auditor.lacounty.gov  
(213) 974-2166

(a) The notification required by section 2.4 shall include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used, or Disclosed; and

(b) the notification required by section 2.4 shall include, to the extent possible, all information required to provide notification to the Individual under 45 C.F.R. 164.404(c), including:

(i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

(ii) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

(iii) Any other details necessary to conduct an assessment of whether there is a risk of harm to the Individual;

(iv) Any steps Business Associate believes that the Individual could take to protect him or herself from potential harm resulting from the breach;

(v) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to the Individual, and to protect against any further Breaches; and

(vi) The name and contact information for the person most knowledgeable regarding the facts and circumstances of the Breach.

If Business Associate is not able to provide the information specified in section 2.3.2 (a) or (b) at the time of the notification required by section 2.4.2, Business Associate shall provide such information promptly thereafter as such information becomes available.

2.4.3 Request for Delay by Law Enforcement. Business Associate may delay the notification required by section 2.4 if a law enforcement official states to

Business Associate that notification would impede a criminal investigation or cause damage to national security. If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay notification, notice, or posting for the time period specified by the official; if the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay the notification, notice, or posting temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in paragraph (a) of this section is submitted during that time.

2.5 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement.

2.6 Breach Notification. Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information, provide Breach notification for each and every Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or subcontractors, in a manner that permits Covered Entity to comply with its obligations under Subpart D, Notification in the Case of Breach of Unsecured PHI, of the Privacy and Security Regulations, including:

(a) Notifying each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of such Breach;

(b) The notification required by paragraph (a) of this Section 2.6 shall include, to the extent possible:

(i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

(ii) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

(iii) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;

(iv) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and

(v) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(vi) The notification required by paragraph (a) of this section shall be written in plain language.

Covered Entity, in its sole discretion, may elect to provide the notification required by this Section 2.6, and Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, including costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information.

2.7 Availability of Internal Practices, Books and Records to Government Agencies.

Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

2.8 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.

2.9 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.

2.10 Accounting of Disclosures. Upon Covered Entity's request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Protected Health

Information made by Business Associate or its employees, agents, representatives or subcontractors, in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and/or the HITECH Act which requires an Accounting of Disclosures of Protected Health Information maintained in an Electronic Health Record for treatment, payment, and health care operations.

Any accounting provided by Business Associate under this Section 2.10 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.10, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.10 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.

- 2.11 Indemnification. Business Associate shall indemnify, defend, and hold harmless Covered Entity, including its elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, penalties and fines (including regulatory penalties and/or fines), and expenses (including attorney and expert witness fees), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement; Business Associate's obligations under this provision extend to compliance and/or enforcement actions and/or activities, whether formal or informal, of Secretary of the federal Department of Health and Human Services and/or Office for Civil Rights.

## **OBLIGATION OF COVERED ENTITY**

- 3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

## **TERM AND TERMINATION**

- 4.1 Term. The term of this Business Associate Agreement shall be the same as the term of this Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.
- 4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in this Agreement, upon either party's knowledge of a material breach by the other party, the party with knowledge of the other party's breach shall:
- (a) Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party;
  - (b) Immediately terminate this Agreement if a party has breached a material term of this Agreement and cure is not possible; or
  - (c) If neither termination nor cure is feasible, report the violation to the Secretary of the federal Department of Health and Human Services.
- 4.3 Disposition of Protected Health Information Upon Termination or Expiration.
- (a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
  - (b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## **MISCELLANEOUS**

- 5.1 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.



- 5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Business Associate Agreement.
- 5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Business Associate Agreement is contrary to another provision of this Agreement, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of this Agreement.
- 5.4 Regulatory References. A reference in this Business Associate Agreement to a section in the Privacy and/or Security Regulations means the section as in effect or as amended.
- 5.5 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.
- 5.6 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations and other privacy laws governing Protected Health Information.